



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,420	05/31/2001	William H. Rogers	QUAL-32669	9288
116 7590 04/25/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER LOFTIS, JOHNNA RONEE				
ART UNIT 3623		PAPER NUMBER		
MAIL DATE 04/25/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/871,420

**Applicant(s)**

ROGERS ET AL.

**Examiner**

JOHNNA R. LOFTIS

**Art Unit**

3623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2, 4, 6-9 and 16-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 4, 6-9, 16-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The following is a final office action upon examination of application number 09/871420. Claims 2, 4, 6 -9, 16-36 are pending and have been examined on the merits discussed below.

***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicant argues claims as newly amended, those features have been addressed with the addition of Jolissaint, US 5,740,240. Jolissaint teaches transferring a participant from an automated system to a live agent wherein the live agent is fed the data collected by the automated system so the live agent can pick up where the automated system left off.
3. Further, in a previous Office Action mailed 3/26/06 notice was taken by the Examiner that certain subject matter is old and well known in the art. Per MPEP 2144.03(c), these statements are taken as admitted prior art because no traversal of this statement was made in the subsequent response. Specifically, it has been taken as prior art that: it is old and well known to collect and present survey information within 24 hours of the completion of conducting a survey.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4, 6 -9, 16-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby, US 5,943,416, in view of Peters et al, US 5,893,098, further in view of Jolissaint, US 5,740,240.

As per claim 2, Gisby teaches a CTI unit, wherein said CTI unit is connected to said connection device to monitor the status of said connection device, and further wherein said CTI unit is connected to said CATI unit to monitor the status of said CATI unit and said agent using said CATI unit; and still further wherein said CTI unit is connected to said IVR unit to monitor said conducting of said automated survey (column 3, lines 7-21 – a CTI processor is used to route callers to the IVR and/or the live agent).

As per claim 4, 17, 18, 20, 22 the combination does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

As per claim 6, Gisby teaches the participant uses verbatims to orally communicate opinions to the IVR unit or CATI unit wherein verbatims are stored in a database (column 5, lines 17-58 – participants can orally communicated opinions to IVR or live agent wherein information is stored for later review).

As per claims 7-9, the combination does not explicitly teach processing and presenting survey information to the consumer within 24 hours of the completion of the conducting of said surveys, however, it is old and well known in the art of automated surveys to compile the results and present the information to the participants for their viewing. By processing the presenting the survey information to the consumers they will have a clear understanding of how their personal views either agree or disagree with the population of other survey participants.

As per claim 16, Gisby teaches a connection device connected to an external communication system for connecting said communication system to a survey participant; a Computer-Assisted Telephone Interview (CATI) unit connected to said connection device, wherein said connection device transfers said participant communication connection to a CATI unit when said connection is successful, inquiring whether the participant is willing to accept transfer to automated survey, and further wherein an agent uses said CATI unit to ask said participant manual survey questions; an Interactive Voice Recognition (IVR) unit connected to said CATI, wherein said CATI agent transfers said participant's communication connection to said IVR unit only if the participant agrees to the transfer for conducting an automated survey utilizing a drill-down survey technique, wherein said IVR unit accepts oral responses from said participant; and a database for storing said responses to said manual survey and said automated survey (column 5, lines 17-25 and column 7, lines 6-15 – calls at a telephony switch are selected

for survey completion, calls are routed to an IVR or a live agent to complete the survey; column 5, lines 23-41 – if the caller gives permission, the caller is routed to the IVR to conduct the survey). Gisby teaches the caller being routed to either an IVR or live agent after giving permission to take part in the survey (column 5, lines 23-60), but does not explicitly teach termination of the automated survey and transfer back to the CATI unit, wherein the system is adapted such that said CATI unit presents said survey to said agent from the point of termination by said IVR unit so that the agent can continue said survey in a manual manner. Jolissaint teaches an automated telephone response system wherein data collected by the automated voice response system is stored in a database and when the live agent takes the call, information produced in the database regarding the caller's transaction is presented to the live agent so the live agent can pick up where the automated system left off (column 3, lines 59-column 4, line 3 and column 5, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in Gisby the features taught by Jolissaint since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 19, Gisby teaches transferring of the participant's connection to said automated survey unit occurs by action of an agent using a terminal only if said survey participant agrees to said transfer, and further wherein survey interview is conducted manually if the participant does not agree to said transfer (column 3, lines 15-30 – determination is made if the caller wishes to participate – caller is routed to either the IVR or a live agent to complete the survey).

As per claim 21, Gisby teaches agent can transfer participant back to said automated survey unit to continue said survey interview, and further wherein the participant participating in an automated survey can be transferred to said agent by a voice command from the participant (column 5, lines 42-60 – switching between IVR and live agent).

As per claims 23 and 24, Gisby teaches processing survey information, storing information in a database and presenting information (column 5, lines 42-60).

As per claim 25, Gisby teaches a connection device connected to an external communication system for connecting said communication system to a survey participant; a Computer-Assisted Telephone Interview (CATI) unit connected to said connection device, wherein said connection device transfers said participant communication connection to a CATI unit when said connection is successful, and further wherein an agent uses said CATI unit to ask said participant manual survey questions; an Interactive Voice Recognition (IVR) unit connected to said CATI, wherein said CATI agent transfers said participant's communication connection to said IVR unit only if the participant agrees to the transfer for conducting an automated survey utilizing a drill-down survey technique, wherein said IVR unit accepts oral responses from said participant; and a database for storing said responses to said manual survey and said automated survey (column 5, lines 17-25 and column 7, lines 6-15 – calls at a telephony switch are selected for survey completion, calls are routed to an IVR or a live agent to complete the survey; column 5, lines 23-41 – if the caller gives permission, the caller is routed to the IVR to conduct the survey). Gisby teaches the caller being routed to either an IVR or live agent after giving permission to take part in the survey (column 5, lines 23-60), but does not explicitly teach termination of the automated survey and transfer back to the CATI unit upon voice command,

wherein the system is adapted such that said CATI unit presents said survey to said agent from the point of termination by said IVR unit so that the agent can continue said survey in a manual manner. Jolissaint teaches an automated telephone response system wherein data collected by the automated voice response system is stored in a database and when the live agent takes the call, information produced in the database regarding the caller's transaction is presented to the live agent so the live agent can pick up where the automated system left off (column 3, lines 59-column 4, line 3 and column 5, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in Gisby the features taught by Jolissaint since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

In addition, Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

Further, the combination does not explicitly teach processing and presenting survey information to the consumer within 24 hours of the completion of the conducting of said surveys, however, it is old and well known in the art of automated surveys to compile the results and



present the information to the participants for their viewing. By processing the presenting the survey information to the consumers they will have a clear understanding of how their personal views either agree or disagree with the population of other survey participants.

As per claim 26, it is the process performed by claim 36 and therefore the same rejection as applied. In addition, Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

As per claim 29, Gisby teaches collecting survey data from survey participants, but does not expressly teach the specific data recited in claim 29; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* § 2106.

As per claim 30, Gisby teaches a connection device connected to an external communication system for connecting said communication system to a survey participant; a Computer-Assisted Telephone Interview (CATI) unit connected to said connection device, wherein an agent uses said CATI unit to ask said participant manual survey questions; an Interactive Voice Recognition (IVR) unit connected to said CATI, wherein said CATI agent transfers said participant's communication connection to said IVR unit only if the participant agrees to the transfer for conducting an automated survey, wherein said IVR unit accepts oral responses from said participant; and a database for storing said responses to said manual survey and said automated survey (column 5, lines 17-25 and column 7, lines 6-15 – calls at a telephony switch are selected for survey completion, calls are routed to an IVR or a live agent to complete the survey; column 5, lines 23-41 – if the caller gives permission, the caller is routed to the IVR to conduct the survey). Gisby teaches the caller being routed to either an IVR or live agent after giving permission to take part in the survey (column 5, lines 23-60), but does not explicitly teach termination of the automated survey and transfer back to the CATI unit upon voice command, wherein the system is adapted such that said CATI unit presents said survey to said agent from the point of termination by said IVR unit so that the agent can continue said survey in a manual manner. Jolissaint teaches an automated telephone response system wherein data collected by the automated voice response system is stored in a database and when the live agent takes the call, information produced in the database regarding the caller's transaction is presented to the live agent so the live agent can pick up where the automated system left off (column 3, lines 59-column 4, line 3 and column 5, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in Gisby the features taught by Jolissaint since the

claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 31, Gisby does not explicitly teach said drill-down survey technique utilizes one or both of responses already provided by the current survey participant and historical responses provided by other participants to determine a subsequent survey question to be asked of the current survey participant. However, Peters et al teaches a system and method wherein survey documents are disclosed that include branched-to-questions linked to other question or questions such that the branched-to-question or questions will only be required to be answered by a respondent user if the respondent user gives a predetermined answer to the question or series of questions to which the branched-to-question is linked. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate drill-down survey technique into Gisby's surveying methodology as a way to help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information thereby leading to a more efficient surveying process.

As per claim 32, Gisby teaches the caller being routed to either an IVR or live agent after giving permission to take part in the survey (column 5, lines 23-60), but does not explicitly teach if permission is not given to transfer the caller to an IVR for surveying that an agent manually provides the survey questions to the participant. Since Gisby teaches switching between manual and automated surveying, and has all the functionality to allow for giving participants a choice

between live and automated surveying, in conjunction with the well known problems associated with IVR systems, specifically, the inability to transfer back to a live agent (Financial Times Survey – para. 5), it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gisby to give participants an option to transfer to a live agent, for any reason, while communicating with an automated system such as IVR. This modification to Gisby would provide a more user-friendly system.

As per claim 33, Gisby teaches a processing unit for processing said responses stored in said database into useful survey information for presentation to a user (it is inherent to IVR systems that a database exists to store survey information).

As per claim 34, Gisby teaches the caller being routed to either an IVR or live agent after giving permission to take part in the survey (column 5, lines 23-60), but does not explicitly teach if permission is not given to transfer the caller to an IVR for surveying that an agent manually provides the survey questions to the participant. Since Gisby teaches switching between manual and automated surveying, and has all the functionality to allow for giving participants a choice between live and automated surveying, in conjunction with the well known problems associated with IVR systems, specifically, the inability to transfer back to a live agent (Financial Times Survey – para. 5), it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Gisby to give participants an option to transfer to a live agent, for any reason, while communicating with an automated system such as IVR. This modification to Gisby would provide a more user-friendly system.

As per claim 35, Gisby teaches a processing unit for processing said responses stored in said database into useful survey information for presentation to a user (it is inherent to IVR systems that a database exists to store survey information).

As per claim 36, Gisby teaches a connection device connected to an external communication system for connecting said communication system to a survey participant; a Computer-Assisted Telephone Interview (CATI) unit connected to said connection device, wherein said connection device transfers said participant communication connection to a CATI unit when said connection is successful, and further wherein an agent uses said CATI unit to ask said participant manual survey questions; an Interactive Voice Recognition (IVR) unit connected to said CATI, wherein said CATI agent transfers said participant's communication connection to said IVR unit only if the participant agrees to the transfer for conducting an automated survey utilizing a drill-down survey technique, wherein said IVR unit accepts oral responses from said participant; and a database for storing said responses to said manual survey and said automated survey (column 5, lines 17-25 and column 7, lines 6-15 – calls at a telephony switch are selected for survey completion, calls are routed to an IVR or a live agent to complete the survey; column 5, lines 23-41 – if the caller gives permission, the caller is routed to the IVR to conduct the survey). Gisby teaches the caller being routed to either an IVR or live agent after giving permission to take part in the survey (column 5, lines 23-60), but does not explicitly teach termination of the automated survey and transfer back to the CATI unit upon voice command, wherein the system is adapted such that said CATI unit presents said survey to said agent from the point of termination by said IVR unit so that the agent can continue said survey in a manual manner. Jolissaint teaches an automated telephone response system wherein data collected by

the automated voice response system is stored in a database and when the live agent takes the call, information produced in the database regarding the caller's transaction is presented to the live agent so the live agent can pick up where the automated system left off (column 3, lines 59-column 4, line 3 and column 5, lines 1-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to include in Gisby the features taught by Jolissaint since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

#### ***Allowable Subject Matter***

As repeated from previous Office Actions:

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 28 is allowed.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Joseph et al, US 6,807,274 – call routing from manual to automated dialog of interactive voice response system

Katz, US 5,351,285 – multiple format telephonic interface control system

Scherer, US 6,137,870 – system for providing caller information to called party via called standard data field

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/jl/

4/24/08

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623